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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,431	02/18/2004	Gary A. Gillis	20002.122	3454

7590 04/18/2007  
Christopher J. Fildes  
Fildes & Outland, P.C.  
Suite 2  
20916 Mack Avenue  
Grosse Pointe Woods, MI 48236

EXAMINER
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THANH, LOAN H

ART UNIT	PAPER NUMBER
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3763

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/781,431

Applicant(s)

GILLIS ET AL.

Examiner

LoAn H. Thanh

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-6,8-13, 17, 20-21 is/are rejected.
- 7) ☒ Claim(s) 3,7,14-16,18-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said tube holders" in 17. There is insufficient antecedent basis for this limitation in the claim. Applicant has recited "at least one tube holder", then continues with "said tube holders". It is unclear whether applicant has one tube holder or more than one tube holder.

Claim 20 recites the limitation "said tube holders" in 19. There is insufficient antecedent basis for this limitation in the claim. Applicant has recited "at least one tube holder", then continues with "said tube holders". It is unclear whether applicant has one tube holder or more than one tube holder.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,4-5,8-13,17,20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon ( US 4,397,647).

Gordon discloses a medical tubing anchor device having a base support 11 having an adhesive side on the bottom and a non-adhesive side on the top . Gordon further shows a flexible anchor member being *generally* rectangular solid having 2 elongated sides , 2 ends , a base 14 and/or 22 and a top. The elongated sides could be the longer sides or the shorter sides whereas the 2 ends could be the reverse. ( The ends can be the shorter sides or the longer sides depending on the broad interpretation of the sides). See figures 3-4. Gordon further shows the anchor base 14and/or 22 being mounted on top of the non-adhesive side of the base support 11. Gordon further shows the anchor member having a plurality of stations ( 2) defined by passageways wherein the passageway shows at least one tube holder 21 having a generally cylindrical cross-section. Gordon shows 4 tube holders. Further, Gordon shows a keeper 25,25' for keeping medical tubing disposed in the stations from inadvertent release.

The endless elastic member is considered to be the cover when in the closed position. The elastic member is retainable in the slot between the ribs 30,31,32. See figures 3-4. With respect to claim 2 and the limitation of the location of the slot in the anchor ends, in the broadest interpretation, the ends are the part which are the walls 19.

With respect to claim 4, the member 25,25' are integrally formed as part of the flexible anchor member at the end.

With respect to claim 5, the grasp tab is considered to be element 29 which is retainable in the slot between the ribs (30,31,32) and also opposite the keeper when the keeper when the keeper 25,25' are in the open position.

With respect to claims 8-9, an element 14 of the anchor member is disclosed to be made of flexible plastic material such as polyvinylchloride or polyethylene . See col.3, lines 53-55. Since Gordon disclose the same material as applicant, it is inherent that that the hardness is between 20A and 50A durometer.

With respect to claim 10, Gordon discloses the base support 11 to be a thin sheet of plastic material such as polyethylene tape or thicker but still a plastic foam material. See col. 3, lines 45-49.

With respect to claims 11-13, it is the Examiner's position that since the device of Gordon is disclosed to hold medical tubes and specifically has a plurality of settings to allow accommodation of different diameter of tubes it is capable of being sized to accept 0.1, 0.15 and 0.2 inch diameter tubes. See col.2, lines 47-49.

With respect to claim 17, Gordon shows 2 stations and three tube holders per station.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (US 4,397,647) in view of Gale ( US 4,849,226).

Gordon discloses the invention as substantially claimed. See above. Gordon specifically discloses a release liner 13 (see col. 3, line 49-53). However, Gordon is silent to the material of the release liner. Gale discloses medicate bandage/patch 10 having an adhesive layer 23 and a release liner 24 in the analogous art of adhering substance to the body. Gale teaches the release liner is in contact with the adhesive layer 23 and made removable by siliconizing the material of the release liner. Gale gives a list of materials of the release liners which includes siliconized polyester siliconized paper...etc. See col. 7, line 65 to col.8, line 9. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the release liner of Gordon by siliconizing the release liner on the adhesive as taught by Gale in order to make it releasable or removable from the adhesive layer.

### ***Allowable Subject Matter***

Claims 3, 7, 14-16,18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

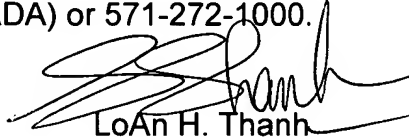
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (571) 272-4966. The examiner can normally be reached on Mon. - Fri. (First Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LoAn H. Thanh  
Primary Examiner  
Art Unit 3763

LT